



# TEXAS JUVENILE JUSTICE DEPARTMENT

## Virtual Board Meeting

<https://www.tjjd.texas.gov/index.php/board#board-meetings>

Friday, October 23, 2020 – 9:00 a.m.

### Call to order

Chairman Ritchey called the meeting to order at 9:00 a.m.

### Prayer

Chairman Ritchey provided the board prayer.

### Pledge

Chairman Ritchey recited the Pledge of Allegiance and the pledge to the Texas Flag.

### Discussion, consideration, and possible approval regarding excused absences (Action)

James Castro was absent. Judge Jarrett moved to approve his absence. Chief Barnes seconded. The motion passed.

### Discussion, consideration, and possible approval regarding the August 7, 2020 Board meeting minutes (Action)

Judge Jarrett moved to approve the minutes. Mr. Morales seconded. The motion passed.

### Discussion, consideration, and possible approval regarding the September 25, 2020 Board meeting minutes (Action)

Chief Matthew moved to approve the minutes. Chief Hencerling seconded. The motion passed.

### Report from the chairman

Chairman Ritchey announced the following board dates for calendar year 2021:

- January 28 & 29 (Austin)
- April 08 & 09 (Austin)
- June 25 – Evins Tour (Edinberg)
- August 26 & 27 (Austin)
- November 04 & 05 (Austin)

### Public comments

There were no public comments.

### Report from the executive director

Camille Cain, Executive Director, provided her report to the board which included updates on COVID-19, the relocation of central office, the Texas Model Plan for Reform, and improving safety in our facilities. She thanked Debbie Whitlock for her amazing work on improving case management and Sean Grove and his tireless, steady hand as Chief of Staff and many others. It has been a busy time and she thanked the team for their amazing commitment, their hard work, their long days and nights trying to realize a vision we all share.

### Report from The Advisory Council on Juvenile Services

Ed Cockerell, Chair of the Advisory Council on Juvenile Services, provided his report to the board which included an overview of the agenda items discussed at their last meeting.

### Report from the chief inspector general

Forrest Mitchell, Inspector General, provided his report to the board. Yesterday he presented the Safety and Security Committee with the detailed OIG statistical reporting for the the 4<sup>th</sup> quarter of FY20. I also provided the committee with a presentation on the 2020 OIG Security Intelligence Program – Gang Report.

It is also important for OIG to prioritize its investigations, and work closely with the Special Prosecutions Unit and State Programs on certain indeterminate sentenced offenders when they are violent, and threatening staff and other juveniles.

There are many more indeterminate sentenced offenders that have no OIG investigations or pending prosecutions. There are many names that I see each week, when we are collaborating with the Release Review Panel, that OIG has no records on, or ones with zero cases sustained for prosecution, and even some with only one.

Yesterday he reported on the arrests, indictments, convictions, dismissals which are metrics of any law enforcement agency, so I felt it was just as important to mention this fact as well.

To also answer some of the questions of the Board members in yesterday's committee meeting, I think it would be important to mention a couple of additional facts about gangs in TJJD.

We sometimes see hybrid gangs made up of confirmed and suspected gang members engaged in disruptive and violent behavior at the secure facilities. It is entirely possible to see multiple gang members from different gang and cliques, that would otherwise be adversaries in their former communities, cooperate in certain TJJD dorms. So even though they may be confirmed members of a street gang from conduct that occurred prior to their TJJD commitment, that membership does not prevent them from being part of a hybrid group while at TJJD.

He added that OIG tries to interview all new commitments, but OIG investigators also interview TJJD juveniles at each facility when were unable to do so in Brownwood. OIG investigators may also interview them at different facilities following certain serious or suspected gang related incidents.

What we have focused on in our report was the confirmed members, but I must report there is a similar number of suspected members that we do not have enough evidence or information on to confirm them. Participation in a criminal act or enterprise with a hybrid gang could serve as some of that evidence we could use for confirmation though on a case by case basis.

However, the 2020 report covers only those we can confirm, and events that have had a due process hearing. OIG will publish this security intelligence data shortly after this meeting along with the 4<sup>th</sup> quarter report.

### Report from the Trust Committee

Mr. Smith provided an overview of the agenda items discussed during the Trust Committee meeting the previous day.

Discussion, consideration, and possible approval of a sublease between Trubee, Inc., regarding approximately 1,804 acres of the Parrie Haynes Ranch (Action)

Linda Butler Arrigucci, Staff Attorney, stated the reference material for this action item may be found on pages 53-55 of your board book. The Boys & Girls Clubs of Central Texas, Inc., is seeking approval to enter into a sublease with Trubee Inc., regarding approximately 1804 acres of the Parrie Haynes Ranch.

Currently, Trubee, Inc., subleases 1549 acres on the east parcel of land—that's part of a 15-year sublease that began December 2015. They have been a tenant in good standing and enjoy a positive working relationship with the Boys and Girls Club. The new sublease that is proposed affects acreage that is located on the western parcel of the land and is commonly known as bird habitat. Please reference page 55 of your board materials to see a map of the area contemplated by the sublease. The purpose of the sublease is to allow Trubee Inc., access to the western parcel of land for horseback riding and overnight camping on the additional 1804 acres. Ms. Ona Trubee anticipated that approximately 20 horses and riders will use the trails on average over the weekends and they may host larger events from time to time that may have 50-100 horses and riders. The five-year lease term would begin January 1, 2021 and end January 1, 2026.

Trubee, Inc. agrees to the following:

- Maintain liability insurance in the amount of \$1 million dollars and to name the Boys and Girls Club and TJJD as additional insureds.
- Agrees to not have hunting rights on the property or access to the hilltop facilities
- Agrees to cooperate with the Boys and Girls Club regarding approved hunting events and the biologist regarding prescribed fire burns
- Agrees to not be responsible for maintaining any fencing. They will have access to the cattle pen area for watering purposes.

Mr. John Macey, the wildlife biologist has opined that horseback riding and overnight camping do not conflict with and are compatible with the Wildlife Management Plan that is in place on the ranch. He believes that the overall environmental impact is insignificant and can be easily monitored to ensure that the habitat is not degraded. He does note, however, that Trubee Inc., needs to obtain his approval prior to removing any trees or bushes in the bird habitat. This is important because the bird habitat area is subject to a Partners Agreement with the US Fish and Wildlife Service. The purpose of that agreement is to maintain and protect the bird habitat for the Black-capped Vireo and Golden-cheeked Warbler bird population.

Staff's recommendation is to support this resolution.

Ms. Lattimore moved to approve the resolution. Chief Hencerling seconded. The motion passed.

Discussion, consideration, and possible approval of an archeological field school being conducted by Texas A&M University – Central Texas at the Priddy Cabin on the Parrie Haynes Ranch (Action)

Linda Butler Arrigucci referred the board to pages 58-71 in your board materials for this presentation. The memo is on pages 58-59, the space utilization agreement is on page 60-61 and the scope of work is on page 62-29. An Aerial view of the cabin is on page 63 and the log structure is photographed on page 64.

The Board previously approved an archeological field school to be conducted at the Priddy Cabin located on the Parrie Haynes Ranch at the October 2019 board meeting for a field school to be held January – March 2020. The archeological field school was successful. A video recording of the activities of the field school may be found on the university's website—it showcases the students, the dig site, their discoveries, and the work done back at the lab dating the artifacts. (The website is found at [www.tamu.edu/warrior-stories](http://www.tamu.edu/warrior-stories))

Dr. Christine Jones, Professor at Texas A&M University of Central Texas wants to conduct another field school this upcoming January 1, 2021 to April 1, 2021. The space utilization agreement and the scope of work contemplated is the same as was agreed and entered into last year.

The Boys and Girls Club (lessee) and Trubee Inc., (subleasee to the eastern parcel of land where the cabin is located) enjoy a positive working relationship and they also support this project.

Staff's recommendation is to support this resolution to allow the field school to continue to be conducted at the Priddy Cabin and the authority for Mrs. Cain to execute a space utilization agreement on behalf of the Trust.

Ms. Lattimore moved to approve the resolution. Judge Jarrett seconded. The motion passed.

Discussion, consideration, and possible approval of a cattle-grazing sublease between the Boys & Girls Club of Central Texas, Inc., and Billy Dean Adamson regarding approximately 818 acres of the Parrie Haynes Ranch. (Action)

This agenda item did not pass out of the Trust Committee so no action was taken by the board on this agenda item.

#### Report from the Finance and Audit Committee

Chief Matthew provided an overview of the agenda items discussed during the Finance and Audit Committee meeting the previous day.

#### Discussion, consideration, and possible approval regarding an acknowledgement of gifts (Action)

- a. The McLennan County Community Resource Council for Troubled Texas Youth
- b. Mr. Steve Tacker
- c. House of Worship

Emily Anderson, Chief Financial and Operations Officer, asked for the boards acknowledgment of gifts received from McLennan County, Mr. Steve Tacker and House of Worship.

Commissioner Morales moved to acknowledge the gifts. Chief Barnes seconded. The motion passed.

#### Discussion, consideration, and possible approval regarding contracts requiring board approval pursuant to GAP.385.1101 (Action)

- a. Texas Christian University – TBRI Training
- b. Central Office Lease

Christian von Wupperfeld, General Counsel, provided details about the following proposed contracts.

#### TCU Contract

We are requesting to increase current not to exceed (NTE) value of contract from current rate of \$450K to a new NTE value of \$650K. Typically, TJJD is able to purchase 40 seats per year to the TBRI practitioner training for which the contract was created. TCU is offering TJJD 160 seats for its early 2021 TBRI practitioner training. The increase in NTE amount is necessary to cover the costs of these 160 seats and leave TJJD the ability to purchase additional seats as needed.

Chief Matthew moved to approve this contract resolution. Mr. Smith seconded. The motion passed.

## Office Contracts

A significant portion of TJJD's cost-savings plan is predicated upon eliminating offices and reducing the size of other offices. The anticipated savings is around \$1M. TJJD cannot terminate its current lease(s) and realize any savings under the plan until it enters into new leases. As time is of the essence, TJJD is requesting permission to enter into new leases for TJJD's Central Office in Austin, and district offices in the Dallas/Fort Worth, Houston and San Antonio areas. Any such lease(s) such leases be in accord with TJJD's cost-savings plan.

Chief Hencerling moved to approve this contract resolution. Mr. Smith seconded. The motion passed.

## Discussion, consideration, and possible approval regarding the Release Review Panel Audit Report (Action)

Eleazar Garcia, Chief Auditor, stated the Release Review Panel Audit starts on Page 92.

The objective for the audit is to determine if the Release Review Panel process is functioning as intended.

We noted

- (97%) of 538 reviews completed between July 6 2019 – July 6,2020 were conducted within the required timeframe.
- Agency staff are positive about their interactions with the RRP members.
- Education documentation is consistently provided to the RRP as required.

Opportunities to improve operations were noted as follows:

- Facilities can improve with completion of required documentation prior to RRP reviews. We found:
  - Stage assessments may not be accurate at time of panel review,
  - facility recommendations are not always timely,
  - parental notifications are not sent,
  - high severity offender recommendation forms are not always provided
- Processes can be improved to ensure mandatory Level II Due Process Hearings are held.
- Reporting on Release Review Panel data should follow the Human Resources Government Code requirements.
- Documentation can be improved to support adjustments to the length of stay.
- Access to the Release Review Panel Tracking System should be periodically reviewed to ensure protection of data.
- Processes are in place to support release of youth without a Panel review.

Chief Matthew moved to approve the audit. Commissioner Morales seconded. The motion passed.

Discussion, consideration, and possible approval regarding the TAC 202 Audit Report (Action)

Eleazar Garcia thanked Information Security Officer Fernando Leal and Cybersecurity Analyst Lathe Craft for their prompt attention to audit requests and assistance through the audit process. The objective for the audit was to determine if the agency's information security program complies with the TAC 202 information security standards. The scope includes review of policies, procedures, and practices over information security and resources. It also includes follow-up on prior audit recommendations and findings related to information security from the Gainesville State School audit regarding access to the Security Intelligence System. Information gathering, interviews, and review of records were performed during the period April through September, 2020.

While the agency has shown significant improvements, full implementation of the TAC 202 information security standards will assist with managing and protecting the integrity and availability of information assets. Auditors communicated specific findings related to information security to management in writing. Due to the nature of these findings, details and recommendations are not fully included in this report in compliance with Government Code Section 2059.055 and 552.139. I do want to note that I will be amending our report to include specific reference to these government codes on page 108. Management concurs with the results of the work and responses to the recommendations are captured within Internal Audit's confidential working papers and will be part of internal audit's follow-up database.

Judge Jarrett moved to approve the audit. Chief Barnes seconded. The motion passed.

Discussion, consideration, and possible approval regarding the Risk Assessment and FY 2021 Audit Plan (Action)

Eleazar Garcia stated information that describes the process used to complete the Risk Assessment and develop the Audit plan includes the:

- Process Description as found on page 116.
  - The risk assessment includes input from staff, Board members, review of agency reports, policies, procedures, as well as Internal Audit's understanding of internal controls at TJJD.
- Risk Assessment Scores which displays the rating for each risk and indicates whether audit coverage has been provided starts on page 118.
  - It's important to note the risk assessment is weighted toward safety of the students and staff.
  - There are 68 auditable units in our Risk Assessment.
  - You will notice we identified 13 high risk areas
- The FY 2021 Audit Plan for Board approval is found on page 121 .

The plan includes 2 facility audits, as well as audits over JSO/JPO certification, Regionalization, Legislative updates and implementation, and a review of the "agency" processes that flow into Workers Comp claims

With the resolution, we are requesting approval of the FY2021 Audit plan and posting of the Audit Plan on the Agency's public website as required by Texas Gov Code Chapter 2102.

Chief Matthew moved to approve the Internal Audit Plan. Chief Hencerling seconded. The motion passed.

Discussion, consideration, and possible approval regarding the Internal Audit Charter (Action)

Eleazar Garcia stated the Charter provides the Purpose, Authority, and Responsibility of the Internal Audit division. It authorizes access to records, personnel, and physical properties relevant to the performance of our audit engagements; It covers that the Internal Auditor and staff are independent from agency operations

through our reporting to the Board as well as our responsibilities within the agency. We review the Charter and seek Board approval annually. There are no changes to be made to the current charter other than obtaining current approval from the Board. We are seeking Board Approval for the Charter.

Ms. Lattimore moved to approve the Charter. Judge Jarrett seconded. The motion passed.

Discussion, consideration, and possible approval regarding the Internal Audit Annual Report (Action)

Eleazar Garcia stated the FY 2020 Internal Audit Annual Report is found on page 129. This report is required per Texas Government Code 2102. One Change I need to note to the current report in your packet, on page 130- Remove Sunset Advisory Commission from list of recipients to the report.

The State Auditor's Office provides guidelines on the 7 areas to be covered in the report

Section I – Compliance with Texas Government Code, Section 2102.015 as found on page 132 of the Board materials.

We are required to submit the report to the Governor's Office, LBB, and State Auditor's Office by November 1<sup>st</sup>. We are further required to post the Annual Report and the Audit Plan on the agency's public website; As part of this section, we report the status of all findings identified during completion of the FY 2019 Audit plan, these are included in Exhibit A found on page 140

- Section 2 page 133 –Accomplishment of the Internal Audit Plan for Fiscal Year 2020.

You will note there are two facility audits being carried forward to FY 2021 .

- Section 3 on page 134 – Identifies Consulting & Non-Audit Services Completed by Internal Audit during FY2020
- Section 4 page 134 - Results of the 2019 External Quality Assurance Review of the Internal Audit Division (Peer Review). This was completed and reported to the Board in the March 2019 and reflects that we received a rating of Pass which is the highest of the 3 ratings.
- Section 5 - Internal Audit Plan for Fiscal Year 2021 (page 136) as was just previously presented
- Section 6 - Identifying External Audits of the Agency during Fiscal Year 2020 (Page 138)  
This list is pretty extensive this year. Travel restrictions due to the Covid 19 pandemic placed additional burdens on these audits. It Includes 2 SAO's Audits, 3 State Comptroller's Audits, and a couple of audits related to CJIS.
- Section 7 - A brief description of Juvenile Justice Department's (TJJD's) actions taken to comply with Reporting Suspected Fraud, Waste, & Abuse (page 139). This entails ensuring the agency website has a reference for reporting suspected fraud, waste, and abuse.
- Also , we report on the current status of issues identified for internal audits on the FY 2020 audit plan. This is tracked through our Audit Follow-up process. This information is found in Exhibit A starting on page 140.

Mr. Smith moved to approve the annual report. Ms. Martin seconded. The motion passed.

#### Report from the Programs Committee

Chief Barnes provided an overview of the agenda items discussed during the Programs Committee meeting the previous day.

Discussion, consideration, and possible approval to publish a proposal to repeal 37 TAC Chapter 353, relating to Substance Abuse Treatment Program, and to publish proposed new 37 TAC Chapter 353, relating to Substance Use Disorder Treatment Programs, in the *Texas Register* for a public comment period of at least 30 days and possible conditional approval to adopt the final rule (Action)

Kaci Singer, Deputy General Counsel for County Matters, presented the proposed repeal relating to Substance Abuse Treatment Program and also presented the proposed new rule relating to Substance Use Disorder Treatment Programs.

Chief Barnes moved to approve the resolution. Chief Hencerling seconded. The motion passed.

Discussion, consideration, and possible approval to publish proposed revisions within 37 TAC Chapter 344, relating to Employment, Certification, and Training, in the *Texas Register* for a public comment period of at least 30 days and possible conditional approval to adopt the final rule (Action)

This agenda item did not pass out of the Programs Committee so no action was taken by the board on this agenda item.

Discussion, consideration, and possible approval to publish proposed revisions to 37 TAC §380.9183, relating to Health Care Services for Youth, in the *Texas Register* for a public comment period of at least 30 days and possible conditional approval to adopt the final rule (Action)

Kaci Singer presented the proposed rule revisions relating to Health Care Services for Youth.

Chief Matthew moved to approve the proposed rule revisions. Chief Barnes seconded. The motion passed.

#### Report from the Safety and Security Committee

Judge Jarrett provided an overview of the agenda items discussed during the Safety and Security Committee meeting the previous day.

Discussion, consideration, and possible approval regarding the discipline of certified officers- Agreed Orders (Action)

a. Damarcus Terrell, Certification No. 20152, 20-20152-200041

b. Manuel Torres, Certification No. 18491, 20-18491-190256

Chelsey Oden, Staff Attorney, presented the agreed orders.

Commissioner Morales moved to approve the agreed orders. Mr. Smith seconded. The motion passed.

Discussion, consideration, and possible approval regarding the discipline of certified officers- Default Orders (Action)

a. Deontae Davis, Certification No. 34132, 20-34132-200205

b. Salvador Herrera, Certification No. 33618, 20-33618-20200

c. Raymond Williams, Certification No. 34792, 20-34792-200205

d. Phillip Costello, Certification No. 33902, 20-33902-190261

e. Jerold Hill, Certification No. 34958, 20-34958-200104

- f. Terrell Green, Certification No. 28600, 20-28600-190297
- g. Carina Ramon, Certification No. 34845, 20-34845-200101
- h. David Harlston, III, Certification No. 33666, 20-33666-200142
- i. Lawon Muckleroy, Certification No. 32963, 20-32963-200111
- j. Nathan Martinez, Certification No. 34288, 20-34288-190314
- k. Caleb Peganyee, Certification No. 34487, 20-34487-200228
- l. Daniel Parker, Certification No. 35417, 20-35417-200169
- m. Willie Mitchell, Certification No. 16375, 20-16375-200122

Chelsey Oden stated that in these cases, notices were sent out and the officers involved did not respond by the deadline and still have not responded. So, we are asking the board to approve the discipline that was sought in the petitions.

a, b, and c – Ms. Palmer moved to approve. Ms. Lattimore seconded. Judge Jarrett abstained. The motion passed.

d – Mr. Smith moved to approve. Commissioner Morales seconded. Ms. Palmer abstained. The motion passed.

e – Ms. Palmer moved to approve. Commissioner Morales seconded. Chief Matthew abstained. The motion passed.

f, g, h, i, j, k, l, m – Commissioner Morales moved to approve. Judge Jarrett seconded. The motion passed.

Discussion, consideration, and possible approval regarding the discipline of certified officers – cases conducted by the State Office of Administrative Hearings ( Action)

- a. Kyrri Haston, Certification No. 33054, 20-33054-190195

Chelsey Oden stated that this case went to SOAH at Mr. Haston's request. The Administrative Law Judge issued a proposal for decision that recommended the board make findings of misconduct and agree that revocation is the most appropriate sanction. Staff agrees with the judge's PFD and has no recommended changes. However, the Board is authorized to make changes to the PFD if certain criteria are met. And, I have those available to discuss if requested.

Chief Matthew moved to approve the resolution. Ms. Palmer seconded. The motion passed.

Closed Session – Executive Session

- a. Government Code §551.071 Consultation with attorney regarding litigation (see footnote)
- b. Government Code §551.072 Deliberation regarding real property (John C. Wende and Parrie Haynes trusts)
- c. Government Code §551.074 Discussion regarding personnel matters

The board entered executive session at 10:44 a.m.

Reconvene in Open Session

The board reconvened in open session at 10:51 a.m.

Discussion, consideration, and possible action regarding agenda items discussed in Executive Session (Action)  
No action was taken for items discussed during executive session.

Adjourn

The meeting was adjourned.